

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 828 - HB 1181

April 9, 2021

SUMMARY OF ORIGINAL BILL: Requires the final disposition of fetal remains from a surgical abortion be either cremated or buried. Declares it is a pregnant woman's right to determine whether the final disposition is by cremation or burial and to determine the location for the final disposition. Requires that such rights be exercised in writing. Requires an abortion facility to determine the final disposition in the event the pregnant woman does not exercise her right.

Prohibits an abortion facility from releasing remains until a decision on the final disposition has been determined. Requires the abortion facility to pay for and provide for the cremation or interment of the fetal remains from a surgical abortion performed at that facility. If the final disposition location chosen by the woman differs from the location provided by the abortion facility, the woman is responsible for the costs related to such disposition at the selected location. Requires an abortion facility to document the final disposition determination, maintain evidentiary documentation, have written policies regarding disposition options, and maintain a list of locations for the final disposition of such remains. Creates a Class A misdemeanor for certain violations.

Prohibits a crematory facility from cremating remains before receiving documentation of the pregnant woman's preferences, and further prohibits disposition of the cremated remains in an unlawful manner.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (005537, 006978): Amendment 005537 deletes and rewrites language of the original bill without making any substantive changes to the legislation.

Amendment 006978 adds language to the bill as amended by amendment 005537 to include the authorization of a law enforcement officer to collect a portion or all of the fetal remains as evidence in a criminal investigation from an abortion facility. Requires the law enforcement officer that obtains fetal remains to provide to the abortion facility documentation describing the fetal remains collected as evidence, and the abortion facility must retain that documentation as part of the pregnant women's medical records. Prohibits any remains collected by the law enforcement officer from being disposed of independently of other fetal remains of the same unborn child.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Department of Commerce and Insurance (DCI), a rule making change will be made as part of the inspections process, and updates will be made to the CORE Licensing System and the website for the Board of Funeral Directors and Embalmers. It is estimated that any changes and updates can be done within existing resources without a significant impact to the DCI.
- There will not be a sufficient number of Class A misdemeanor prosecutions for state or local government to experience any significant increase in fine revenue or expenditures.
- The proposed legislation will not result in a significant increase in caseloads for the state and local courts. Any increase in expenditures will be absorbed within existing resources.
- Any impact on the Department of Health's policies or procedures will be not significant.
- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-sufficient over any two-year period. The Board of Funeral Directors & Embalmers experienced a deficit of \$148,559 in FY18-19, a surplus of \$181,254 in FY19-20, and had a cumulative reserve balance of \$1,269,374 on June 30, 2020.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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